



Staff Report

Date: May 26, 2020

To: City Council

From: Valerie J. Barone, City Manager

Reviewed by: Andrea Ouse, Director of Community and Economic Development
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Subject: **Considering:**

- 1) Direction to staff regarding the procedure and criteria for a merit-based competitive process to review and select eligible applicants to apply for available City Cannabis Licenses for cannabis storefront retailers, non-storefront retailers, and microbusinesses with a storefront retail component; and
- 2) Adoption of a Resolution Amending Exhibit "A" to Resolution No. 78-6042 to establish deposit amounts for review of business proposals associated with a merit-based competitive selection process for cannabis retailers and microbusinesses.

CEQA: Not a project under Public Resources Code 21065, Guidelines Sections 15060(c)(2), 15060(c)(3), 15061(b)(3), or 15378; in the alternative, CEQA does not apply under Business and Professions Code Section 26055(h).

Report in Brief

The City of Concord is in the process of adopting amendments to Chapter 5.80 (Cannabis) of and Title 18 (Development Code) of the Concord Municipal Code (CMC) regarding the permitting, licensing, and regulation of commercial cannabis businesses within the City. These cannabis regulation amendments were considered and the

Ordinance was introduced by Council on April 28, 2020—a second reading is scheduled for this meeting, May 26th—and would allow up to: 1) five cannabis manufacturers; 2) an unlimited amount of Type 13 distributors if affiliated with a primary cannabis license type; 3) six retailers (three storefront and three non-storefront); 4) four microbusinesses (up to two of which may have a storefront retail component and up to two of which may have a non-storefront retail component); and, 5) two Type 11 distributors (standalone). No limit on the number of licenses would be placed on testing laboratories, and all license types would allow both medicinal and adult-use.

Pursuant to the retail cannabis ordinance previously approved by the City Council, licenses for storefront and non-storefront cannabis retailers and those microbusinesses with a retail storefront component would be subject to a competitive Request for Proposal (RFP) process. Applicants for the competitive licenses would be selected by the City Council to apply for a City Cannabis License to be issued by the Police Department. Staff now requests that the City Council consider the merit-selection process and criteria for reviewing and approving applications for commercial cannabis licenses for retailers (both storefront and non-storefront) and microbusinesses with a storefront retail component, and revise the City's Master Fees and Charges resolution to include a fee for staff's review of the RFP submittals.

Recommended Action

1. Provide direction to staff regarding the procedure and criteria for a merit-based competitive process to review and select eligible applicants to apply for available City Cannabis Licenses for cannabis storefront retailers, non-storefront retailers, and microbusinesses with a storefront retail component (Attachment 1).
2. Adopt a Resolution amending Exhibit "A" to Resolution No. 78-6042 to establish deposit amounts for review of business proposals associated with a merit-based competitive selection process for cannabis retailers and microbusinesses (Attachment 2).

Background

The City's current effort to amend the existing regulations on retail cannabis uses began with a Joint Study Session of the City Council and the Planning Commission on April 2, 2019, at which time staff was directed to pursue revisions to the regulations to potentially allow additional commercial cannabis activities including adult-use and medicinal retail (storefront and non-storefront). At this meeting, the Council also expressed interest in developing a competitive application process for cannabis retailers and exploring the use of a community benefit and/or development agreements to generate revenue for the City.

At its November 5, 2019 meeting, the City Council considered the introduction of an ordinance amending Concord Municipal Code Chapter 5.80 (Cannabis) to allow for both adult and medicinal use cannabis licenses for manufacturing and distribution, to

increase the number of available licenses for these uses, and to allow for retail uses, such as storefront, non-storefront and microbusinesses.

During the meeting, the Council provided consensus or unanimous support for a number of specific recommendations. The Council also directed staff to develop criteria for a merit-based Request for Proposal (RFP) process for consideration by the Council Committee on Policy Development & Internal Operations (PD&IO) for recommendation to the full Council.

To assist with development of the merit-based review and selection process, the City retained the services of HdL Companies. HdL's Cannabis Management Services ("Project Consultant") team has worked with over 150 California cities and counties to provide cannabis ordinance development and review, community outreach, merit-based application and permitting processes, cost recovery studies, fiscal analyses, regulatory/financial compliance reviews, and law enforcement training. HdL's team has reviewed, scored, and processed over 1,800 cannabis business applications in the last four years in California and has conducted over 2,500 background checks for applicants.

On February 24, 2020, City staff and Project Consultant presented a draft merit-based competitive selection process for retailers to the Council Committee on Policy Development and Internal Operations (PD&IO). The PD&IO Committee supported the recommendation that both storefront and non-storefront cannabis retailers be subject to a competitive Request for Proposal (RFP) process, but requested some additional changes for consideration by the full Council. Those recommendations included the following:

- Simplify the initial step of the application process to reduce the costs for applicants by requiring more detailed information on the safety and security plans, after being selected by the Council to apply for a license.
- Allow individual deposit amounts at the various stages of the application process, rather than one large amount upfront.
- Allow up to three Letters of Intent per property on a first come, first serve basis.
- Add a warning in the narrative of the Request for Proposals (RFP) indicating the City Council may adopt a prohibition on the retail sale of vaping products.
- Require proof of General Liability insurance as part of the application process for a City Cannabis License and not as part of the submittal in response to the RFP.

- A cursory background check for each owner would only be required as part of the initial submittal in response to the RFP and a full background check would be required toward the end of the process.
- Increase the weight of scoring on the depth of diversity within the business under the Labor & Enterprise Plan.
- Increase the weight of scoring for a business owner who lives in the City of Concord under the Labor & Enterprise Plan.
- Interested in establishing a minimum community benefit, if possible but understand the community benefit may have to be proposed by the applicant for evaluation.

The Committee also recommended the full Council consider specific recommendations related to microbusinesses as part of the Cannabis Ordinance, as follows:

- Microbusinesses be included in the competitive selection process;
- Increase the total number of microbusiness licenses; and,
- Storefront retail to be included as an allowed use as part of a microbusiness.

On April 28, 2020, the City Council introduced an Ordinance by vote of 3:2 (Ayes: McGallian, Aliano, Birsan; Noes: Hoffmeister, Obringer), amending Concord Municipal Code Chapter 5.80 (Cannabis) and Development Code (Title 18) to:

1. Allow adult-use City Cannabis Licenses for manufacturers and Type 13 distributors;
2. Increase the maximum number of City Cannabis Licenses for manufacturers (up to five), affiliated Type 13 distributors, and unlimited amount of testing laboratories; and,
3. Allow City Cannabis Licenses for retail (storefront (up to three) and non-storefront (up to three), microbusinesses (up to four), and Type 11 distributors (up to two).

The second reading and adoption of the ordinance is on the consent calendar this evening. The ordinance will go into effect in 30 days following its adoption.

The City Council action via that ordinance also included:

1. Decreasing the required buffer distance between cannabis businesses and sensitive uses (public or private schools, child day care facilities, youth community center) from 600 feet to 250 feet; and,
2. Modifications to allow additional microbusiness licenses (four total; up to two with a non-storefront retail component and up to two with a storefront retail

component). Microbusinesses with a storefront retail component would be selected through a competitive selection process.

As a result of the City Council's action, the following are the potentially new commercial cannabis licenses that the Council would allocate through a competitive selection process:

- Up to three storefront retailer licenses;
- Up to three non-storefront retailer licenses; and,
- Up to two microbusinesses with a storefront retail component. (Two other microbusinesses would be available on a first-come, first-served basis).

Analysis

Competitive Selection Process for Cannabis Retailers

As discussed above, the City Council has directed staff to develop a competitive Request for Proposal (RFP) selection process for storefront and non-storefront cannabis retailers, as well as microbusinesses with a storefront retail component. The RFP requirement is included in the Cannabis Ordinance under Section 5.80.090, "*Conditions for specific cannabis licenses.*"

As proposed, the RFP process would require cannabis business applicants to submit an application for consideration by the City Council for one of the eight available licenses (three storefront retail, three non-storefront retail, and up to two microbusinesses with storefront retail). The process would entail a merit-based approach to rank applications, using specific evaluation criteria.

Development of the RFP procedures and criteria was guided by the PD&IO Committee at its February 24, 2020 meeting. Staff's recommendations outlined in this report incorporate the requested changes directed by PD&IO at the February 24, 2020 meeting, and Council majority at the April 28, 2020 meeting. Proposed RFP requirements are detailed in the evaluation and scoring criteria drafted by staff (Attachment 1).

Application Submittal Requirements

Based on the direction from Council at this meeting, staff, with technical assistance from Project Consultant, will prepare the RFP submittal directions (RFP Application Procedures and Guidelines). This document would serve as the notice that the City is accepting proposals for a specified time period, and would provide detail on the submittal requirements, scoring criteria, process, and timeline for reviewing, scoring, ranking, and final selection of applications. The document would also include a final version of Attachment 1 based on Council direction. In order to meet the projected timeline, it is recommended that this document be finalized by the City Manager, based on Council's direction tonight, prior to RFP issuance (see Table 2).

Application Process

Applicants would be required to submit a complete application package, including responses for all the criteria being evaluated in Attachment 1. In addition, applicants would be required to submit hard copies of the following:

1. Completed Initial City Cannabis License Application form¹ (form to be developed by staff);
2. A signed and notarized Property Consent form (form to be developed by staff);
3. Lease Agreement, or a “Letter of Intent” to lease, or proof of ownership;
4. Limited Liability Waiver (form to be developed by staff);
5. Indemnification form (form to be developed by staff);
6. Zoning Verification Letter from the City; and
7. A filled-out City-issued provisional background check form for each owner.

In order to receive original wet signatures on the application documents, the hard copy packet will be required to be submitted in person. Furthermore, a fee deposit would be required at the time of application submittal. The estimated application fee would be an amount estimated to be sufficient to cover all expected City and Project Consultant costs for processing the proposal through the competitive selection process (see *Fee Structure*, below). As the fee would be a deposit, the applicant would be asked to replenish funds in the deposit account during the review process to cover unanticipated staff or Project Consultant costs. If there are funds remaining in the deposit account after the review process concludes, said funds will be returned to the applicant.

Four-Phase RFP Application Process

The application process would consist of four phases described in detail below:

- Phase I: Initial Review
- Phase II: Evaluation and Scoring
- Phase III: Eligibility List
- Phase IV: Final Section

1. Phase I (Initial Review) is an initial review of the application to determine whether it is complete and meets all of the minimum requirements described in the application.

¹ This will be a modified version of the current City Cannabis License Application form (CMC Section 5.80.040). By submitting the form as part of the RFP selection process, once selected, the applicant will receive a more streamlined review of their City Cannabis License. The form will also provide the applicant with additional required information, if their application is selected, in order to complete the license application, so that they are able to prepare in advance as desired.

During the initial review, staff would ensure that the application also includes the required criteria A through E as listed in the Evaluation Criteria document, which is provided as Attachment 1.

Complete submissions would move forward to Phase II. Applications that fail to provide all of the submittal requirements would be deemed incomplete and would not move forward to Phase II. There would be no appeal rights at this stage, as scoring is based solely on objective criteria.

2. Phase II (Evaluation and Scoring) would include the evaluation and scoring of the criteria detailed in the RFP Application Procedures and Guidelines, to be finalized by staff based on Council direction at this meeting. Applications would be reviewed and scored by Project Consultant, using a merit-based system based on the following 2,000-point scale:

- A. Business Plan = 40% (up to 800 Points): Owner qualifications, business operations, budget, finances, etc.
- B. Labor and Local Enterprise Plan = 15% (up to 300 Points): Employee wages and benefits, owners' and/or managers' city residency, work force development, etc.
- C. Neighborhood Compatibility Plan and Odor Control Plan = 15% (up to 300 Points): Plans to reduce any possible impacts to surrounding neighborhood/community at large.
- D. Community Benefits and Investments Plan = 30% (up to 600 Points): Benefits proposed to be provided by the business as part of the RFP response. These benefits could include, but are not limited to; volunteer services, monetary donations to local non-profit organizations, financial support of City sponsored activities or organizations, in-kind donations to the City or other charitable organizations, and/or any other economic incentives to the City.
- E. Preliminary Safety and Security Plan = (pass/fail): Description of planned safety and security measures (see detailed description below).

Attachment 1 provides detail on each of the above criteria. Any applicant not being permitted to move on to Phase III of the process may request a formal appeal pursuant to CMC Section 5.80.050 (see *Appeals*, below).

Preliminary Safety and Security Plan

Phase II would also include a review of a preliminary Safety Plan and Security Plan to ensure the applicant would be able to address minimum state requirements, if selected. Based on PD&IO Committee direction, this early review would ensure that the applicant is familiar with the state requirements and the

safety and security considerations of the proposed site, without creating a cost burden for applicants associated with hiring consultants before the proposal is selected. This section would be reviewed on a pass/fail basis only and would not be given a numerical score. Once selected to apply for a license, the applicant would be required to submit a comprehensive Safety and Security Plan prepared with the assistance of a professional fire prevention and suppression consultant, and a professional security consultant, subject to the review and approval of the Police Chief and Fire District.

3. In Phase III (Eligibility List), applicants that meet all submittal requirements and score a minimum of 80% (1,600 points) or higher in Phase II would be ranked from highest to lowest within each license type, in order to establish an eligibility list. This list would be forwarded to the City Manager or designee, who would prepare a report for the City Council. Only the highest scoring applications for each of the City Cannabis License types (retail storefront, retail non-storefront, and microbusinesses) shall proceed forward to Council for review. Any applicant not being recommend to Phase IV may request a formal appeal pursuant to CMC Section 5.80.050 (see *Appeals* below).
4. In Phase IV (Final Selection), a maximum of six of the highest-scoring applications for retail storefront and six for non-storefront, and four for microbusinesses with storefront retail would be forwarded to the City Council for interviews and final selection to determine which applicants are eligible to apply for a City Cannabis License. If an appellant is successful, the Council may interview additional applicants. This final selection would occur at a public meeting where the top applicants would have the opportunity to address the Council and answer any additional questions prior to a final decision being rendered. It is anticipated that these interviews (up to 16 in total) may need to be scheduled over the course of multiple City Council or Special City Council meetings if necessary, in order to provide adequate time for consideration of the final selection. The City Council has the ability to choose from any of the top applicants that are being interviewed by them.

The City reserves the right to request and obtain additional information from any candidate who advances to Phase IV. Should any of the top applicants withdraw for any reason or be subsequently disqualified prior to Council interview the City Manager shall invite the next highest-scoring applicant, of those who scored over 80% (if any), from the eligibility list to participate in the Phase IV interviews. Should a firm selected by Council drop out or be disqualified before obtaining all licenses and permits, the Council will select the next firm eligible to move forward in the licensing process at a public meeting, with or without additional interviews.

Appeals

Although the PD&IO Committee did not address the competitive selection appeal process, staff recommends following the license appeal process outlined in the Cannabis Ordinance (5.80.050.c) in connection with the issuance of Cannabis Licenses. This process involves the City Manager appointing a Hearing Officer. Staff recommends the Council consider interviewing a successful appellant (if any) prior to making its final recommendation for the selected businesses (see Table 2 below).

Post RFP Application Process

Following selection of the operators for the available cannabis business types, the applicants will need to obtain the following approvals prior to operation:

- City Cannabis License (streamlined review based on Initial City Cannabis License Application form included as part of the RFP process) (Police Chief decision)
- Administrative Permit to allow a cannabis land-use (Planning Division staff decision unless appealed or associated with a Development Agreement)
- Design and Site Review (same as above)²
- Building Permit approval (Building Official decision)
- State cannabis license (State of California decision)
- Business license (Finance Department revenue process)

Please note that these are separate licenses/processes, and that securing Council recommendation via the RFP process does not guarantee a particular outcome with respect to these items, particularly in the land use context where the City must conduct CEQA review and interested parties may appeal decisions.

Fee Structure

Costs to the applicant for the review and selection process would be apportioned based on the number of phases each participates in, as well as anticipated staff and Project Consultant (if applicable) time for each of the various steps. Based on direction from the PD&IO Committee, all applicants would be required to submit a minimum fee deposit tied to, and collected at, each phase of the selection process. This would ensure that all City costs (including Project Consultant) for reviewing and processing the application are covered, without creating an undue up-front cost burden for applicants.

The first deposit for the initial application submittal would cover Phases I and II, since it is anticipated that most applicants will at least be participating in those two phases. Then, each applicant that continues through the process will be required to pay in advance prior to Phase III of the process, and prior to Phase IV. Deposits for the various

² In certain instances a Design and Site Review application could require review by the Design Review Board.

phases include an estimate of staff and Project Consultant time. If additional funds are required, the City has the ability to request additional funds. . In addition, staff proposes an appeal fee associated with the application process, as coordination, management and evaluation of an appeal will create an additional burden on staff resources and the costs should be carried by the applicants.

Table 1: Proposed Deposit Amounts by Phase³

| Phase | Consultant Costs | Staff Time | Total |
|------------|------------------|------------|---------|
| Phase I/II | \$2,500 | \$2,500 | \$5,000 |
| Phase III | \$1,000 | \$3,000 | \$4,000 |
| Phase IV | \$1,000 | \$2,000 | \$3,000 |
| Appeal | \$1,500 | \$1,500 | \$3,000 |

Next Steps and Timeline

Contingent on the nature and extent of any subsequent revisions to the application requirements, CMC Chapter 5.80, or the Development Code, staff has established the following tentative timeline for the competitive selection process. This timeline is subject to change based on a number of factors⁴:

| Table 2: Tentative Timeline | |
|------------------------------------|--|
| July 6 | Competitive application process posted on City website; open for 45 days |
| August 20 | Last day to submit business proposal applications for evaluation |
| August 21- September 4 | City staff conducts initial screening for completeness |
| September 8 | HdL to review applications |
| September 28 | HdL to report scores and ranking to the City Manager |
| October 5-9 | City to mail ranking notices or disqualification letters to applicants |
| October 12-16 | Retail-storefront City Council Interviews (assumes 6 interviews) |
| October 19-23 | Retail non-storefront City Council Interviews (assumes 6 interviews) |
| October 26-30 | Microbusinesses licenses with storefront retail City Council Interviews (assumes 4 interviews) |
| November 9-13 | Appeal hearings scheduled and completed, if applicable |

³ These are minimum deposit amounts. All funds not utilized would be returned to the applicant or rolled over to the next phase of the process. If funds are not adequate to cover staff and Project Consultant time, additional funds will be requested of the applicant.

⁴ This timeline may be adjusted based on factors including the ongoing impacts of COVID-19, number of applications received, ability to schedule interviews with the Council at regular or special meetings, etc.

| | |
|----------------|--|
| November 16-20 | Successful appellants interviewed by City Council, if applicable |
| November 23-27 | City Council selection of the up to eight winning proposals (three retail storefront, three retail non-storefront, and up to two microbusinesses with storefront retail) |

Financial Impact

The requirement for community benefit/development agreements in relation to new cannabis uses is expected to result in additional revenue for the City.

As the “community benefits” offered by the operators are deemed to be voluntary in nature and cannot be mandated by the City, staff has reviewed the types of “community benefits” that other jurisdictions have received in connection with similar cannabis RFP processes. These “community benefits” have included the following: 1) periodic payments of a certain percentage of the proposed cannabis operator’s revenues (ranging from 1% to 6% of certain revenues); 2) payment of a flat fee; or 3) funding of youth or addiction education programs, or programs to address homelessness in the community. As the RFP process incorporates a ranking of offered community benefits, staff anticipates that the Council will be able to select those operators who provide benefits that best address the City’s needs and impacts to the community as a result of the cannabis business operations.

According to Project Consultant (HdL), the potential revenue for the three storefront retailers and up to two microbusinesses (with storefront retail) is estimated to be between \$660,000 (4% benefit) and \$990,000 (6% benefit). The potential revenue for the three non-storefront retailers is estimated between \$64,000 (4% benefit) and \$96,000 (6% benefit). In addition, it is anticipated that the City would also receive the 1% portion of the regular sales tax from the transactions estimated at \$197,000 and 0.5% Measure Q transactions and use tax on those sales delivered within city limits estimated at \$98,500. Thus, the total projected annual revenue from the community benefit and sales tax could be between \$1,020,000 to \$1,382,000 after one year of full implementation for the eight businesses.

Environmental Determination

Pursuant to the California Environmental Quality Act of 1970, Public Resources Code §21000, et seq., as amended and implementing State CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations (collectively, “CEQA”), the development of the RFP criteria does not constitute a “project” within the meaning of Public Resources Code Section 21065 and CEQA Guidelines Sections 15060(c)(2), 15060(c)(3) or 15378 because there is no potential that the activity will result in a reasonably foreseeable indirect or direct physical change in the environment. Moreover, even if the development of the RFP criteria did comprise a project for CEQA analysis, it falls within the “common sense” CEQA exemption set forth in CEQA Guidelines Section 15061(b)(3), excluding projects where “it can be seen with certainty that there is no

possibility that the activity in question may have a significant effect on the environment.” There is also no reasonable possibility that the activity would have a significant environmental effect due to unusual circumstances.

In addition, Business and Professions Code Section 26055(h) provides that CEQA does not apply to the adoption of an ordinance, rule, or regulation that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity, as long as each subsequent discretionary approval involves applicable CEQA review. Therefore, the development of a RFP process to obtain the relevant City Cannabis License does not warrant further environmental review.

Also, the revision to the City’s Master Fees and Charges Schedule does not constitute a “project” within the meaning of Public Resources Code Section 21065, 14 Cal Code Reg. Section 15060(c)(2), 15060(c)(3), or 15378 because it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. In addition, the revision is categorically exempt pursuant to Section 15061(b)(3), “Review for Exemptions” of the CEQA Guidelines because there is no possibility that the update to the City’s Master Fees and Charges Schedule may have a significant effect on the environment, and no further environmental review is required. Moreover, even if the revision does comprise a project for CEQA analysis, it falls within the “common sense” CEQA exemption set forth in CEQA Guidelines Section 15061(b)(3), excluding projects where “it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” None of the exceptions identified in CEQA Guidelines Section 15300.2 are present. No unusual circumstances are present.

Public Contact

All appropriate public notices of this agenda item have been posted. Staff also e-notified interested parties and have posted the notification on the City’s cannabis webpage: <http://www.cityofconcord.org/cannabis>

Attachments

1. Draft Description of Evaluation Criteria for Storefront and Non-Storefront Retail (Competitive Process)
2. Resolution establishing deposit amounts for cannabis competitive selection process with Exhibit A: Master Fees and Charges Amendment

Attachment 1:

Description of Evaluation Criteria for Commercial Cannabis Storefront and Non-Storefront Retail and Microbusinesses with Storefront Retail (Competitive Process)

SECTION A (40%): BUSINESS PLAN (up to 800 Points)

The submitted Business Plan shall include the following:

1. Owner qualifications. Resumes/Curriculum Vitae are not to exceed one (1) page per owner. (Please see CMC Section. 5.80.020 for definition of owner)
2. A budget for construction, operations, maintenance, compensation of employees, equipment costs, utility costs, and other business costs.
3. Proof of capitalization by a verifiable source.
4. Pro forma for at least three years of operation.
5. Fully describe hours and days of operation.
6. Fully describe the day-to-day operations for each license type being sought.
7. Fully describe cash handling procedures, including methods of limiting the amount of cash on the premises and a detailed plan for the safe handling and transfer of cash.
8. Fully describe inventory control procedures to include, point-of-sale, and track and trace software.
9. Business formation and all related documents filed with the California Secretary of State.
10. If applicable, please describe the percentage of vaping products anticipated and the brands that will be incorporated as part of the business model. Note that the City Council may consider a ban on vaping products in the near future. Said ban would likely apply to all existing and new cannabis businesses.

SECTION B (15%): LABOR & LOCAL ENTERPRISE PLAN (up to 300 Points)

1. Describe whether the commercial cannabis business is committed to offering employees a Living Wage. ("Living Wage" shall mean 125% of the minimum wage mandated by California Labor Code Section 3511).
2. Briefly describe benefits provided to employees such as healthcare, vacation, and medical leave, to the degree they are offered as part of employment.
3. Describe opportunities for continuing education and employee training.
4. Describe the extent to which the business will be a locally owned enterprise whose owners reside within the City of Concord. In order to qualify for the residency criteria a person must provide acceptable documentation as determined by the City Manager that they have lived in the City for at least one year..
5. Describe policies and programs to attract and retain Concord residents as employees, including anticipated percentages and numbers of employees to be Concord residents.
6. Describe the number of employees, their title/position, and their respective

responsibilities.

7. Thoroughly describe employee policies and procedures (complete manuals are not required to be submitted).
8. If the commercial cannabis business has twenty (20) or more non-supervisory employees, the applicant must attest that they are committed to or have entered into a labor peace agreement and will abide by its terms.
9. Describe how the business will develop a diverse work force that meets the needs of the community. The plan will be at the discretion of the business but will be evaluated on its ability to demonstrate it has a viable plan.

SECTION C (15%): NEIGHBORHOOD COMPATIBILITY AND ODOR CONTROL PLAN (up to 300 points)

1. Describe how the commercial cannabis business will proactively address and respond to complaints related to noise, light, odor, litter, vehicle and pedestrian traffic.
 - a. Detail the process to respond to calls, emails, and other forms of complaints
 - b. Describe how these complaints will be logged, tracked, evaluated, and addressed.
2. Describe how the commercial cannabis business will be managed so as to avoid becoming a nuisance or having impacts on its neighbors and the surrounding community.
3. Describe odor mitigation practices:
 - a. Identify potential sources of odor
 - b. Describe odor control devices and techniques employed to ensure that odors from cannabis are not detectable beyond the licensed premises.
 - c. Describe all proposed staff training, and system maintenance plans.
 - d. Describe the waste management plan. The plan shall include waste disposal locations, security measures, methods of rendering all waste unusable and unrecognizable, and the vendor in charge of disposal.

SECTION D (30%): COMMUNITY BENEFITS AND INVESTMENTS PLAN (up to 600 Points)

The application should describe all quantifiable benefits the commercial cannabis business will provide to the local community. Benefits may be in the form of volunteer services, monetary donations to local non-profit organizations, financial support of City sponsored activities or organizations, in kind donations to the City or other charitable organizations and/or any other economic incentives to the City. Please note that each successful applicant will be required to enter into a Community Benefit Agreement and/or Development Agreement with the City before being issued a City Cannabis License.

SECTION E: PRELIMINARY SAFETY AND SECURITY PLAN (Pass/Fail)

Pursuant to CMC 5.80.040(13) and Government Code Section 6254(f), Safety and Security Plans marked as "Confidential" will not be disclosed to the public or in response to a Public Records Act request without the consent of the applicant.

The Preliminary Safety and Security Plan should consider all possible fire, medical and hazardous

situations. Please provide a detailed description for each criteria; **complete policy/procedures manuals are not required at this point of the application process.**

1. Provide name(s) of the professional fire prevention and suppression consultant(s) that will be used to prepare the safety plan.
2. Identify all gases and/or chemicals proposed to be used.
3. Identify fire alarm and monitoring system intended for use.
4. Describe the proposed accident and incident reporting procedures.
5. Describe the proposed evacuation procedures.
6. Provide name(s) of the professional security consultant(s) that will be used to prepare the security plan.
7. Preliminary Premises (Security) Diagram. In addition to diagrams submitted for other sections of the application, applicants shall submit a preliminary premises diagram which, focuses on proposed security measures and how they relate to the overall business. (Pursuant to Bureau of Cannabis Control regulations, Title 16, Division 42, §5006 and CCR Title 17, Division 1, Chapter 13, § 40105, Premises Diagram, as applicable). The diagram shall be accurate, dimensioned and to scale (minimum scale $\frac{1}{4}$ ").

**BEFORE THE CITY COUNCIL OF THE CITY OF CONCORD
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

**A Resolution Amending Exhibit “A” to Resolution
No. 78-6042 to Establish Deposit Amounts for Review
of Business Proposals Associated with a Merit-Based
Competitive Selection Process for Cannabis Retailers
and Microbusinesses**

Resolution No. 20-XX

WHEREAS, the City of Concord provides a variety of municipal services; and

WHEREAS, the City Council adopted Resolution No. 78-6042 on October 9, 1978,
establishing a master resolution within which various municipal fees and charges would be located;
and

WHEREAS, on April 28, 2020, at a duly noticed public hearing, the City Council introduced
Ordinance No. 20-4, amending Concord Municipal Code Chapter 5.80 (Cannabis) and Development
Code (Title 18) to: allow adult-use City Cannabis Licenses for manufacturers and Type 13
distributors; increase the maximum number of City Cannabis Licenses for manufacturers, Type 13
distributors, and testing laboratories; and allow City Cannabis Licenses for retail (storefront and non-
storefront), microbusinesses, and Type 11 distributors; and

WHEREAS, the amendments to Exhibit “A” to Resolution No. 78-6042 are necessary to
establish certain processing fees and charges for reviewing and processing commercial cannabis
retailer business proposals through a merit-based competitive selection process (the “fees”) based
upon the amendments to the Municipal Code and Development Code to ensure that the City is
reimbursed for services rendered; and

WHEREAS, such fees are based on existing hourly rates already established by the City; and

WHEREAS, the City Council, at its meeting on May 26, 2019, received an oral and written
report from City staff identifying the need therefor; and

WHEREAS, pursuant to the California Environmental Quality Act of 1970, Public Resources
Code §21000, et seq., as amended and implementing State CEQA Guidelines, Title 14, Chapter 3 of
the California Code of Regulations (collectively, “CEQA”), the development of the RFP criteria does
not constitute a “project” within the meaning of Public Resources Code Section 21065 and CEQA

1 Guidelines Sections 15060(c)(2), 15060(c)(3) or 15378 because there is no potential that the activity
2 will result in a reasonably foreseeable indirect or direct physical change in the environment.
3 Moreover, even if the development of the RFP criteria did comprise a project for CEQA analysis, it
4 falls within the “common sense” CEQA exemption set forth in CEQA Guidelines Section
5 15061(b)(3), excluding projects where “it can be seen with certainty that there is no possibility that the
6 activity in question may have a significant effect on the environment.” There is also no reasonable
7 possibility that the activity would have a significant environmental effect due to unusual
8 circumstances. In addition, Business and Professions Code Section 26055(h) provides that CEQA
9 does not apply to the adoption of an ordinance, rule, or regulation that requires discretionary review
10 and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity,
11 as long as each subsequent discretionary approval involves applicable CEQA review. Therefore, the
12 development of a RFP process to obtain the relevant City Cannabis License does not warrant further
13 environmental review. Also, the revision to the City’s Master Fees and Charges Schedule does not
14 constitute a “project” within the meaning of Public Resources Code Section 21065, 14 Cal Code Reg.
15 Section 15060(c)(2), 15060(c)(3), or 15378 because it has no potential for resulting in either a direct
16 physical change in the environment, or a reasonably foreseeable indirect physical change in the
17 environment. In addition, the revision is categorically exempt pursuant to Section 15061(b)(3),
18 “Review for Exemptions” of the CEQA Guidelines because there is no possibility that the update to
19 the City’s Master Fees and Charges Schedule may have a significant effect on the environment, and
20 no further environmental review is required. Moreover, even if the revision does comprise a project
21 for CEQA analysis, it falls within the “common sense” CEQA exemption set forth in CEQA
22 Guidelines Section 15061(b)(3), excluding projects where “it can be seen with certainty that there is
23 no possibility that the activity in question may have a significant effect on the environment.” None of
24 the exceptions identified in CEQA Guidelines Section 15300.2 are present. No unusual circumstances
25 are present.

26 **WHEREAS**, the City Council held a public hearing on May 26, 2020, at which time members
27 of the public were afforded an opportunity to address the City Council regarding this matter; and
28

1 **WHEREAS**, upon close of the public hearing the City Council deliberated upon the oral
2 report from City staff, the written report from City staff dated May 26, 2020, together with oral and
3 written testimony and other relevant information received during the course of the public hearing
4 (“Fee Information”) and

5 **WHEREAS**, the City Council has determined that Section E “Police Fees” in Exhibit A to
6 Resolution No. 78-6042 shall be amended as indicated in Exhibit A of this resolution.

7 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CONCORD DOES**
8 **RESOLVE AS FOLLOWS:**

9 **Section 1.** The above recitals (which are hereby incorporated by reference) are accurate and
10 constitute findings in this matter and, together with the Fee Information, serve as an adequate and
11 appropriate evidentiary basis for the findings and actions set forth in this Resolution and further makes
12 the following findings:

13 **Section 2. CEQA:** Pursuant to the California Environmental Quality Act of 1970, Public
14 Resources Code §21000, et seq., as amended and implementing State CEQA Guidelines, Title 14,
15 Chapter 3 of the California Code of Regulations (collectively, “CEQA”), the development of the RFP
16 criteria does not constitute a “project” within the meaning of Public Resources Code Section 21065
17 and CEQA Guidelines Sections 15060(c)(2), 15060(c)(3), or 15378 because there is no potential that
18 the activity will result in a reasonably foreseeable indirect or direct physical change in the
19 environment. Moreover, even if the development of the RFP criteria did comprise a project for CEQA
20 analysis, it falls within the “common sense” CEQA exemption set forth in CEQA Guidelines Section
21 15061(b)(3), excluding projects where “it can be seen with certainty that there is no possibility that the
22 activity in question may have a significant effect on the environment.” There is also no reasonable
23 possibility that the activity would have a significant environmental effect due to unusual
24 circumstances. In addition, Business and Professions Code Section 26055(h) provides that CEQA
25 does not apply to the adoption of an ordinance, rule, or regulation that requires discretionary review
26 and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity,
27 as long as each subsequent discretionary approval involves applicable CEQA review. Therefore, the
28

1 development of a RFP process to obtain the relevant City Cannabis License does not warrant further
2 environmental review. Also, the revision to the City’s Master Fees and Charges Schedule does not
3 constitute a “project” within the meaning of Public Resources Code Section 21065, 14 Cal Code Reg.
4 Section 15060(c)(2), 15060(c)(3), or 15378 because it has no potential for resulting in either a direct
5 physical change in the environment, or a reasonably foreseeable indirect physical change in the
6 environment. In addition, the revision is categorically exempt pursuant to Section 15061(b)(3),
7 “Review for Exemptions” of the CEQA Guidelines because there is no possibility that the update to
8 the City’s Master Fees and Charges Schedule may have a significant effect on the environment, and
9 no further environmental review is required. Moreover, even if the revision does comprise a project
10 for CEQA analysis, it falls within the “common sense” CEQA exemption set forth in CEQA
11 Guidelines Section 15061(b)(3), excluding projects where “it can be seen with certainty that there is
12 no possibility that the activity in question may have a significant effect on the environment.” None of
13 the exceptions identified in CEQA Guidelines Section 15300.2 are present. No unusual circumstances
14 are present.

15 **Section 3.** The City Council has reviewed, considered, and evaluated all of the Fee
16 Information prior to acting upon the fee revision.

17 **Section 4.** The amended Commercial Cannabis Fees are to ensure that the City is reimbursed
18 for all costs and services associated with reviewing and selecting cannabis retailer business proposals
19 through the merit based competitive selection process, to determine a business’s eligibility to apply
20 for a limited number City Cannabis Licenses, and include Cannabis Request for Proposal (RFP) Fees
21 for: Phase I/II Review, Evaluation & Scoring; Phase III Eligibility Ranking; Phase IV Interviews; and
22 RFP Appeal Fee.

23 **Section 5.** Section E “Police Fees” in Exhibit “A” to Resolution No. 78-6042 is amended as
24 recommended and set forth in Exhibit A hereto.

25 **Section 6.** The documents and other materials that constitute the record of proceedings upon
26 which the City Council has based its decision are located in and may be obtained from the City of
27 Concord City Clerk, 1950 Parkside Drive, Concord, CA 94519.

1 **Section 7.** The City Council does hereby amend the City of Concord Master Fee Schedule to
2 adopt revisions to the fee schedule as shown in Exhibit “A”, attached hereto and incorporated herein,
3 effective May 26, 2020.

4 **Section 8.** This resolution shall become effective immediately upon its passage and adoption.

5 **PASSED AND ADOPTED** by the City Council of the City of Concord on May 26, 2020, by
6 the following vote:

7 **AYES:** Councilmembers -

8 **NOES:** Councilmembers -

9 **ABSTAIN:** Councilmembers -

10 **ABSENT:** Councilmembers -

11 **I HEREBY CERTIFY** that the foregoing Resolution No. 20-XX was duly and regularly
12 adopted at a regular meeting of the City Council of the City of Concord on May 26, 2020.

15 _____
16 Joelle Fockler, MMC
 City Clerk

17 **APPROVED AS TO FORM:**

19 _____
20 Susanne Meyer Brown
 City Attorney

22 Attachment - Exhibit “A”: Schedule E for Master Fees and Charges, Section E “Police Fees”, No. 28
23 (and subsections) “Commercial Cannabis License Fees”

| Num | Description | Current Fee | Deposit ¹ |
|-----------|---|------------------------|-----------------------|
| E. | Police Fees | | |
| 26 | Commercial Cannabis License / Renewal Fees | | \$15,000 ² |
| 26.1 | Commercial Cannabis License Inspection Fees | | See 2.2 |
| 26.2 | Commercial Cannabis License Modification Fees | | See 2.2 |
| 26.3 | Commercial Cannabis License Processing Fee | | See 2.2 |
| 26.4 | Fingerprint Processing Fee | See E. 10 ³ | |
| 27 | Commercial Cannabis License Appeal Fee | | \$5,000 |
| 28 | Cannabis Request for Proposal (RFP) Fees | | See 28.1-4 |
| 28.1 | Phase I/II: Review, Evaluation & Scoring | | \$5,000 |
| 28.2 | Phase III: Eligibility Ranking | | \$4,000 |
| 28.3 | Phase IV: Interviews | | \$3,000 |
| 28.4 | RFP Appeal Fee | | \$3,000 |
| | | | |
| | ¹ Actual staff hours pursuant to Table 1 (City Employee Hourly Rates for Requested Services) | | |
| | ² The cannabis business shall maintain a minimum of \$5,000 in the deposit account at all times. | | |
| | ³ E.10 - Fingerprint Processing Fee | | |